Before the
Federal Communications Commission
Washington, DC 20554

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| In the Matter of | ) | |
| | ) | |
| Leased Commercial Access | ) | MB Docket No. 07-42 |
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To: The Commission:

**Consolidated Reply to Oppositions**

TVC Broadcasting, LLC ("TVC") submits the following in reply to the oppositions filed by Verizon and National Cable & Telecommunications Association ("NCTA") to TVC's March 31, 2008 Petition for Reconsideration (the "Petition"). TVC submits that Verizon and NCTA misapprehend the limited relief sought in the Petition, and that any reasonable assessment of the problems addressed in the Petition would conclude they are serious matters meriting FCC action.

The crux of TVC's Petition is that certain leased access practices of cable systems are per se unreasonable and should be prohibited. The oppositions of Verizon and NCTA boil down to their assertion that cable systems should be free to engage in these practices. The specific practices in question are:

a. Contractual provisions in leased access agreements that obstruct, impede or prevent leased access programmers from invoking FCC processes;

b. The practice of locating free leased access channels among the pay-per-view or subscription channels carried on a cable system;

c. The practice of relocating leased access channels on short notice or during ratings periods; and

d. The refusal by those cable systems offering targeted local advertising to portions of their systems to allow leased access programmers to purchase carriage over similar segments of the cable systems.

First, with respect to contractual provisions restricting access to FCC processes, there can be no legitimate reason for cable operators imposing such contractual restrictions on leased access providers. The cable operators consistently argue that their First Amendment rights are abridged by government regulation. Yet they frequently insist that leased access programmers waive their First Amendment right to petition their government for redress of grievances as a condition of cable access. Confidentiality or anti-publicity provisions of this nature in leased access agreements are wholly unreasonable and should be prohibited.

Next, with respect to channel placement matters, TVC submits that it is unreasonable to expect that cable customers will search for free television signals among the pay-per-view and subscription channels of a cable system. Therefore, it is inherently unreasonable for a cable operator to locate free leased access programming among these pay channels. In this connection, TVC notes that Verizon claims that it is striving to put together intuitive and logical channel line-ups. Logical channel lineups are exactly what TVC is advocating, and Verizon objectives would be well served by grant of this aspect of TVC's petition.

In the matter of TVC's request that leased access providers receive four months prior notice of channel relocation, Verizon suggests that this should be matter for negotiation, not rule. However, there is little negotiation possible in leased access matters, since most power lies with the cable operator, who is generally opposed to leased access in the first place. Moreover, forced relocation of leased access channels on short notice is incredibly disruptive of access programmers' relationships with audiences and advertisers. Even with careful advance preparation, channel changes disrupt viewership patterns. Precipitous channel changes are inherently unreasonable and a suitable notice period should be required prior to relocation of a leased access channel.

TVC's Petition also addresses the problem of relocating leased access channels during ratings periods. As previously noted, channel relocations, even well-planned channel relocations, are disruptive of viewership patterns. Disrupting viewership patterns during a ratings period insures that advertiser supported channels will not have accurate ratings data until the next rating period. This disadvantages advertisers and leased access programmers, alike, and undermines the financial support for leased access operations. The Commission should act to prohibit this incredibly destructive practice.

The final matter addressed in the Petition is TVC's request that cable operators offering targeted advertising to different segments of their systems, offer leased access programmers access to targeted segments of those systems. NCTA characterizes this request as a request to "break up" unitary cable systems. In fact this request is made because the trend among cable operators is to consolidate numerous unitary systems into mega systems that are so large that the cable operators must disaggregate the systems in order to sell local advertising. Once a system reaches the size that it has to segment itself to sell local advertising, it is not at all unreasonable to expect the system to segment itself to facilitate local leased access programming.

The relief sought by TVC in its Petition is limited and is carefully targeted to certain leased access practices that are so pernicious as to be unreasonable per se. Prohibiting these practices will protect the integrity of the FCC's processes, enhance competition and foster diversity of programming and viewpoints. TVC asks that the Commission grant the Petition.

Respectfully submitted,

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## Certificate of Service

I, Tamara Freeman, hereby certify that the foregoing Consolidated Reply to Oppositions was served this 23rd day of May, 2008 by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:

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